

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAR 12 2014

OFFICE OF
MANAGING DIRECTOR

Randall J. Covard
FiberLight LLC
11700 Great Oaks Way, Suite 100
Alpharetta, GA 30022

Licensee/Applicant: **FiberLight LLC**
Waiver Request: Late Payment Penalty; 47 U.S.C. §
159(c)(1); 47 C.F.R. §§ 1.1164(c)
Disposition: Dismissed
Station: N/A
FRN: 0017978016
Fee: Fiscal Year (FY) 2012 Regulatory Fee Late
Payment Penalty and Charges
Date Request Filed: Oct. 18, 2013
Date Regulatory Fees Paid: Sep. 16, 2013
Date Penalty Paid: Not Paid
Fee Control No.: RROG-13-00015436
Amount Due: **See Fee Filer**

Dear Mr. Covard:

This responds to Licensee's *Request*¹ for waiver of the penalties for late payment of Fiscal Year (FY) 2012 regulatory fees. For the reasons stated herein, we dismiss the *Request*.

The Commission's records show that Licensee failed to pay the full amount of the Fiscal Year (FY) FY 2012 regulatory fee when due.² Rather, Licensee's partial payment was received on September 16, 2013, and Licensee failed to include the statutory 25% penalty,³ and interest, additional penalties, and charges of collection.⁴ Licensee's partial payment did not resolve its delinquency and red light⁵ status. Indeed, because a partial payment is first applied to the

¹ Letter from Randall J. Covard, FiberLight, LLC, 11700 Great Oaks Way, Alpharetta, GA 30022 to FCC, Attn: Revenue and Receivables Operation Group, 445 12th Street, S.W., Room 1-A821, Washington, DC 20554 (Oct. 2, 2013)(*Request*).

² See FY 2012 Regulatory Fees Due No Later Than September 13, 2012, *Public Notice*, DA 12-1295 (Aug. 13, 2012).

³ 47 U.S.C. §159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164.

⁴ 31 U.S.C. § 3717, 47 C.F.R. § 1.1940.

⁵ 47 C.F.R. § 1.1910.

penalties and accrued charges,⁶ it left the regulatory fee account delinquent.⁷ Accordingly, as required by 47 C.F.R. §§ 1.1164(e)⁸ and 1.1910, we dismiss the *Request* and demand immediate payment, and under 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940, we continue to assess interest, penalties, and charges of collection. Our Demand Letter cautioned Licensee that such charges will accrue until the debt is paid in full.⁹ Moreover, because Licensee did not establish “extraordinary circumstances”¹⁰ for a waiver, even had Licensee first paid the full amount due and then requested a waiver and refund of the statutory penalty for late payment, the accrued interest, penalties, and the charges of collection, we would deny the *Request*.

Refer to the Commission’s fee filer website to determine a payoff, and thereafter make full payment without delay. Because Licensee is delinquent in paying a non-tax debt, under 47 C.F.R. § 1.1910, Licensee is subject to the Commission’s red-light rule, and the Commission will withhold action on any application filed or pending and dismiss. *See* 47 C.F.R. §§ 1.1108, 1.1109, 1.1116, and 1.1118. Any Commission action taken prior to the payment of delinquent non-tax debt owed to the Commission is contingent and subject to rescission. Failure to make payment on any delinquent debt is subject to collection of the debt, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act, 31 U.S.C. § 3717. Moreover, the Commission may collect amounts due by administrative offset.¹¹

Interest and penalties continue to accrue from the date of delinquency, and under the law,¹² we will apply debt collection procedures.¹³ Moreover, under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we will transfer the delinquent debt to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs.

⁶ 47 C.F.R. § 1.1940(f).

⁷ 47 C.F.R. §§ 1.1157(c)(1), 1.1164(c).

⁸ 47 C.F.R. §§ 1.1164(e) (“Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment.”), 1.1910.

⁹ Demand Letter, Federal Communications Commission, Washington, D.C. 20554 to FiberLight LLC, 11700 Great Oaks Way, Suite 100, Alpharetta, GA 30022 (9/20/2013).

¹⁰ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

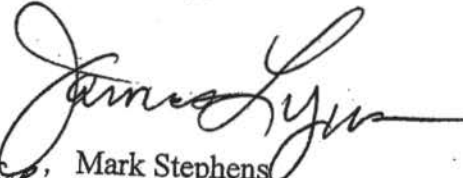
¹¹ 47 C.F.R. § 1.1912.

¹² *See* 47 C.F.R. § 1.1901, *et seq.*

¹³ *See* 31 C.F.R. § 3717.

If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,


For: Mark Stephens
Chief Financial Officer